

94 Phil. 327

[G.R. No. L-5727. February 12, 1954]

**FRANCISCO FLORES AND JACINTA PASTORAL, PLAINTIFFS AND APPELLANTS,
VS. VICTOR PLASINA, JUANA SAFRANCA AND PAZ Q. PABELLO, DEFENDANTS
AND APPELLEES.**

D E C I S I O N

BAUTISTA ANGELO, J.:

On January 12, 1937, a homestead patent covering a tract of land was granted to Pedro Flores under Act No. 2874 and to that effect original certificate of title No. 4318 was issued in his favor.

On March 28, 1938, Pedro Flores executed a document wherein he transferred to Francisco Flores, his brother, a portion of the land having an area of 8 hectares. This document was never registered nor annotated on the back of the title covering the land.

On March 21, 1944, Pedro Flores executed a deed of sale in favor of Victor Plasina and his wife Juana Safranca wherein he transferred and conveyed to the latter all his right, interest and participation in the land for the sum of P6,000, and on May 6, 1944, said spouses in turn sold their right and interest in the same property to Paz Q. Pabello for the sum of P10,000.

Pedro Flores died on January 7, 1947 leaving no heir except his widow who had likewise died. Because of an incident he had with the deceased brother Pedro, which resulted in the death of the latter, Francisco Flores was accused and convicted for homicide on January 23, 1947, and after serving part of the sentence he was set free on parole on September 8, 1950.

After having recovered back his freedom, and having been informed of the transfers made by his deceased brother, Francisco Flores and his wife brought the present action in the Court of First Instance of Quezon on February 19, 1951 seeking to recover not only the 8 hectares which they claim belonged to them in their own right but also the rest of the property by way of redemption as heirs invoking in their favor the provisions of section 119 of Commonwealth Act 141. They made as party defendants the spouses Victor Plasina and Juana Safranica and Paz Q. Pabello.

Defendants filed separately a motion to dismiss alleging that the complaint states no cause of action or, if it does, the claim has already prescribed. These motions were denied for lack of merit. Then defendants filed their answer wherein they recited the events leading to the acquisition on their part of the land and reiterated their plea that the claim of plaintiffs, if any, has already prescribed.

After receiving the evidence of both parties, the court found for defendants and dismissed the complaint with costs against the plaintiffs. From this judgment, plaintiffs took the case on appeal to the Court intimating in their notice of appeal that they would raise merely questions of law.

The first question to be determined refers to the legal effect upon the appellees of the document executed by Pedro Flores in favor of his brother Francisco wherein the former expressly stated that the latter was the true owner of a portion of 8 hectares of the land which was granted to him as homestead even if the title covering the same was only made to appear in the exclusive name of Pedro Flores. Appellants contend that while this document was not registered and the title was issued in the name of Pedro Flores, their right over the aforesaid portion should be recognized by appellees because of the fact that when they purchased the whole property from Pedro Flores in 1944 they were informed by the notary public who intervened in the preparation of the document that that portion has already been sold to the appellants by Pedro Flores. This imputation was vigorously denied by appellees who claim not only to have acted in good faith but to be totally ignorant

of the alleged encumbrance as shown by the fact that the title that was given to them by Pedro Flores on the occasion of the transfer does not show in its face any encumbrance and that they had never been informed by the notary public of the existence of such encumbrance.

The question raised is one of law and fact. The claim of appellants that the notary public, Juan Buhay, has warned the appellees that a portion of the land in question has already been transferred by the deceased Pedro Flores to appellants is a question of fact which has already been passed upon by the lower court sustaining the claim of appellees that they were not aware of such transaction. This finding the court has to accept considering the nature of this appeal wherein appellants intimated that they would merely raise question of law. If such were not the case we would not now have jurisdiction over the matter considering that the value involved does not come under our jurisdiction. In bringing this appeal to this court upon the claim that plaintiffs would merely raise questions of law, appellants waived their right to dispute the findings of fact of the lower court which under the rules and precedents are deemed final and are binding upon this court, (Rule 42, sec. 3; Millar vs. Nadres, 74 Phil., 307; Portea vs. Pabellion, 47 Off. Gaz.,^[*][2] 655. We are therefore constrained to hold that appellees have acted in good faith when they purchased the land from Pedro Flores relying as they did on the certificate of title shown to them by the vendor at the time of the transaction. This they have the right to do. They have no duty to go behind the title to look for any encumbrance. For the purposes of the law, the title is their best guide. Thus, this court has aptly held: "A person dealing with registered land is not required to go behind the register to determine the condition of the property. He is only charged with notice of the burdens on the property which are noted on the face of the register or certificate of title. To require him to do more is to defeat one of the primary objects of the Torrens system." (Anderson vs. Garcia, 64 Phil., 506.)

Let us now come to the claim that appellants as heirs of the late Pedro Flores are entitled to repurchase the whole property from the appellees under the provisions of section 119, Commonwealth Act 141. In

connection with this claim it is important to observe that the homestead patent was issued to Pedro Flores on January 12, 1937 whereas the transfer of the land to the spouses Plasina took place on March 21, 1944 and that in favor of Paz Q. Pabello on May 6, 1944. It may therefore be stated that the sale of the land took place after the expiration of five years from the grant of the homestead patent and as such is valid and binding between the parties. It is true, that the transfer took place before the expiration of 25 years from the issuance of the patent and the law requires that the transfer be made with the approval of the Secretary of Agricultural and Natural Resources, (section 118, Commonwealth Act. No. 141), but we do not deem of importance the absence of such requirement not only because the same is not now in issue but because this court has already held in a similar case that the failure to secure the requisite approval from the Secretary of Agriculture and Natural Resources does not have the effect of rendering the sale null and void. This provision of the law is merely directory which can be complied with at any time in the future. (Evangelista vs. Montano, et al., 93 Phil., 275.)

But what is now invoked by appellants is the provision of the law which grants to the vendor, his widow, or heirs the privilege of repurchasing the property within the period of five years from the date of the sale provided that the original period of five years had already elapsed at the time of the transfer, (section 119, Commonwealth Act 141.) They seek now to compel appellees to reconvey to them the property claiming to be the only heirs of the deceased. Can they still exercise this privilege under the facts of this case?

Our opinion is in the negative. The attempt now made by appellants to exercise the right of redemption has already prescribed it appearing that more than five years had elapsed since the last transfer was made to Paz Q. Pabello.

The evidence shows that the first transfer was made by Pedro Flores to the spouses Plasina on March 21, 1944 and the second was made by the latter to Paz Q. Pabello on May 6, 1944 whereas this action which seeks to compel appellees to effect the redemption was initiated only on

February 19, 1952. And, on the other hand, the evidence does not disclose that an offer to repurchase has been tendered by appellants prior to the presentation of the action. It is evident therefore that their right of redemption has already prescribed. And this is true notwithstanding the confinement of Francisco Flores in jail, for it is obvious that he can offer to repurchase or make a deposit of the redemption money to preserve his right even if he is imprisoned. He does not have to do this personally. This is not one of the grounds by which prescription of an action may be interrupted (article 1973, old Civil Code).

Wherefore, the decision of the lower court is hereby affirmed, without pronouncement as to costs.

Paras, C. J., Pablo, Bengzon, Padilla, Montemayor, Reyes, Jugo, and Labrador, JJ., concur.

[*] 84 Phil., 298.
